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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,611	02/18/2004	James W. Betley	BTL-100US	2674
31344	7590	07/01/2005	EXAMINER	
RATNERPRESTIA P.O. BOX 1596 WILMINGTON, DE 19899			HOOK, JAMES F	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/781,611

Applicant(s)

BETLEY ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-18-04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 appears to be claiming the same top wall which is being claimed in claim 1 from which it depends, therefore claim 2 appears to be reciting the same structure twice which is indefinite when the scope of the claim cannot be determined when it is unclear whether such is new structure or not. For purposes of examination the top wall of claim 2 will be taken to be the same as that of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by George. The patent to George discloses in figure 5 an air circulation duct where the duct location is considered merely intended use and the duct is capable of being provided for an external application, comprising a duct formed of side walls 80, bottom wall 78, and top

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wall 76 where a pair of angled cover panels 90 are provided over the top wall, the top and bottom walls are parallel, and the side walls are parallel, the top wall is located under the cover panels, the cover panels form a substantially peaked roof shape forming first and second acute angles with the two side walls, where the duct cover is attached to a duct structure and therefore is capable of retrofitting there to where such is merely intended use, where the duct and panels are formed of polyurethane.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 10, 15-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over George in view of Lambert. The patent to George discloses all of the recited structure with the exception of forming the cover panel of sheet metal such as aluminum provided with insulation which is polyurethane, and stating that the cover and duct are made of the same materials. The patent to Lambert discloses the a duct comprising a wall formed of a sheet metal material and provided with insulation, the use of aluminum for the metal is merely a choice of mechanical expedients and is an old and well known material used for duct walls, where Lambert teaches forming the top section with a peaked roof shape where the same material is used for all elements of the duct. It would have been obvious to one skilled in the art to modify the duct in George to be made of any material including metal such as aluminum to coat the

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insulative layer of polyurethane where the use of aluminum is considered an obvious choice of mechanical expedients and old and well known in the art to be used in combination with an insulative layer to form a duct wall and to form all the walls of the same material as suggested by Lambert, where such is a known equivalent material used to form duct walls, and such would provide a stronger duct than just an insulative plastic material such as polyurethane.

Claims 1-6, 8-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haack in view of George. The patent to Haack discloses the recited air duct where various materials can form the duct walls including insulated layers of polyurethane, metal skins, and where the duct can be formed in many shapes including a rectangular shape, and shapes where the upper top portion are angled and formed of walls of 2 or more angles to them, where the same material is used to form all of the duct work. The patent to Haack discloses all of the recited structure with the exception of providing either a top wall to the embodiments with a plurality of angled upper walls such as figures 3 and 4, or providing a pair of angled walls to the top of a duct with parallel top and bottom portions. The patent to George discloses that a top wall can be provided to the top of the duct that is parallel to the bottom, as set forth above. It would have been obvious to one skilled in the art to modify the top of the conduit in Haack by providing a top wall parallel to the bottom wall to provide a rectangular duct interior, or to modify the top of a rectangular duct configuration by providing a pair of angled panels to provide a further duct portion above the main duct portion as suggested by George where such would increase the efficiency of the duct and allow for a wider range of uses.

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thereby saving money by reducing the different numbers of ducts needed to meet the needs of the user.

Conclusion

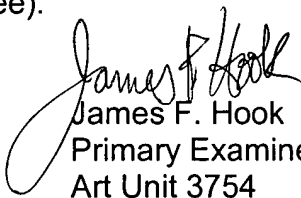
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Crim, Jr., Hughett, Galvin, Qualley, Ziegler, Perry, Rauenhorst, Hansen, and Lardillat disclosing state of the art ductwork.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
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JFH